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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/585,947

07/11/2006

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070469-0020

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02/26/2010

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EXAMINER

CHU, KIM KWOK

ART UNIT

PAPER NUMBER

2627

MAIL DATE

DELIVERY MODE

02/26/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/585,947 | Applicant(s) EJIMA, NAOKI | |
| | Examiner Kim-Kwok CHU | Art Unit 2627 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed on 12/8/2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/8/2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, lines 5 to 9, the claimed "copy control information", "content identification information" and "content status information" are indefinite as whether they are belong to the newly add feature "first recording medium" or some kind of control signals sent out by the transmission unit.

Similarly, regarding each of Claims 11, 13, and 19; the claimed "copy control information", "content identification information" and "content status information" are not clear as whether they belong to the newly add feature "first recording medium" or some kind of control signals sent out by the transmission unit.

The claims not specifically mentioned above are rejected because these claims are dependent on the rejected base claims.

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Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless -
(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.*

4. Claims 1-4, 11-15, 19 and 20 are rejected under 35 U.S.C. § 102(e) as being anticipated by Asano et al. (U.S. Patent 6,978,377).

5. Asano teaches a content transmitting apparatus having all of the elements and means as recited in claims 1-4. For example, Asano teaches the following:

Regarding Claim 1, the content transmitting apparatus 10 (Fig. 1) which transmits content of a first recording medium (column 1, lines 41-45; data area stored in a recording medium) that is digital copyrighted work (Fig. 4; column 7, lines 13-15; digital work is stored data) including a plurality of content blocks (Fig. 4; content blocks are the stored content files), the apparatus comprising: a transmission unit 16/24 (Fig. 1; transmission channel 30 for data transmission) configured to repeat (continue) transmitting (Fig. 1; channel 30 is used for

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continuing data transmissions), for each of the plurality of content blocks (Fig. 4; data block; media files), in parallel (together) with each of the content blocks, copy control information (Fig. 4; copyright modes) indicating copy permission of the content, that is digital copyrighted work (stored data which is copy controlled), content identification information (Fig. 1; transmission control status of the whole data transferring process) identifying the content (stored data) that is digital copyrighted work, and content status information (Figs. 1 and 4; files transferring status) indicating to which part (files) of overall content said each of the content block corresponds (column 4, lines 39-43).

Regarding Claim 2, a control unit 12 (Fig. 1; CPU) configured to judge whether or not content to be transmitted is copy associated with copy permission number, wherein in the case where the content to be transmitted is judged as the copy associated with the copy permission number by said control unit, the transmission unit 16/24 transmits, for each of the plurality of content blocks, in parallel with each of the content blocks, the copy control information, the content identification information and the Content status information, and in the case where the content to be transmitted is judged as not the copy associated with the copy permission number, the transmission

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unit 16/24 (Fig. 1) transmits, for each of the plurality of content blocks, in parallel with said each of the plurality of content blocks, the copy control information and the content identification information (Fig. 5; column 5, lines 49-60; column 7, lines 47-53).

Regarding Claim 3, a content reproducing unit 20 (Fig. 1; column 5, lines 31-37) configured to repeatedly read out, from the first recording medium, for each of the plurality of content blocks, the corresponding content block, the corresponding copy control information, the corresponding content identification information and the corresponding content status information, wherein the control transmission unit transmits the content block, the copy control information, the content identification information and the content status information that have been read out by the control unit (Figs. 1 and 5).

Regarding Claim 4, a control unit 12 (Fig. 1) configured to generate a validity flag indicating whether or not the content identification information read out from the recording medium is valid data (Fig. 1; inherent feature such as decoding and error control which verify all the data transmission), wherein the control transmission unit 12 transmits the content identification information accompanied by the validity flag

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(Fig. 1; validity flag is an inherent feature such as transmission error control).

6. Claims 11 and 12 have limitations similar to those treated in the above rejections, and are met by the reference as discussed above.

7. Asano teaches a content receiving apparatus having all of the elements and means as recited in claims 13-15, 19 and 20. For example, Asano teaches the following:

Regarding Claim 13, the content receiving apparatus 20 (Fig. 1) which receives, from outside, content of a first recording medium (column 1, lines 41-45; data area stored in a recording medium) that is digital copyrighted work including a plurality of content blocks (Fig. 4), and records the content into a second recording medium 26 (Fig. 1), wherein the plurality of content blocks are sequentially transmitted, each of the content blocks (Fig. 4; data block; media files) being accompanied by the copy control information indicating copy permission of the content, that is digital copyrighted work (Fig. 4; column 7, lines 13-15; digital work is stored data), the content identification information identifying the content, that is digital copyrighted work (Fig. 4; column 7, lines 13-15;

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digital work is stored data) and the content status information indicating to which part (files) of overall content said each of the content block corresponds (Figs. 1 and 4; files transferring status; column 4, lines 39-43), and the content receiving apparatus 20 (Fig. 1) comprises: a receiving unit 24 configured to receive each of the content blocks (stored data), the copy control information, the content identification information and the content status information; and a recording unit 26 configured to record the content indicated by the content identification information into the recording medium based on the content status information (Fig. 1; transmission control status of the whole data transferring process) within a range that does not exceed the copy permission number, in the case where the copy control information indicates that the copy permission number (two generations) is limited (Fig. 5).

Regarding Claim 14, a memory unit 23 (Fig. 1) configured to memorize copy number table that has recorded a cumulative number that has been acquired after the receiving unit received (Fig. 5), for each of the content identification information, the content indicated by the content identification information (Fig. 1; transmission control status of the whole data transferring process), and recorded into the second recording medium 26 (Fig. 1) by the recording unit, and the recording unit

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(i) refers to the copy number table memorized by said memory unit, (ii) reads out the cumulative number corresponding to the content identification information received by said receiving unit, and (iii) judges whether or not the read out cumulative number does not exceed the copy permission number indicated by the copy control information received by said receiving unit, and in the case where the read out cumulative number does not exceed the copy permission number, the recording unit records the content into the recording medium (Figs. 1 and 5).

Regarding Claim 15, the recording unit 26 updates the cumulative number to be incremented by one, the cumulative number corresponding to the content identification information memorized by the memory unit 23, when confirming that the overall content is received, and recorded into the recording medium, based on the content status information (Figs. 1 and 5).

8. Claims 19 and 20 have limitations similar to those treated in the above rejections, and are met by the reference as discussed above.

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Allowable Subject Matter

9. Claims 5-10 and 16-18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. The following is an Examiner's statement of reasons for the indication of allowable subject matter:

As in claim 5, the prior art of record fails to teach or fairly suggest a content transmitting apparatus having following features: control unit judges whether or not read-out mode of the first recording medium used by the content reproducing unit is special reproduction, and in the case where the read-out mode is the special reproduction, the control unit generates a validity flag indicating that the content identification information is invalid.

As in claim 6, the prior art of record fails to teach or fairly suggest a content transmitting apparatus having following features: the content identification information includes a data sequence made of a plurality of data, and the control unit judges whether or not the data sequence has been completely read out from the first recording medium by the content reproducing unit, and generates the validity flag based on the result.

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As in claim 8, the prior art of record fails to teach or fairly suggest a content transmitting apparatus having following features: In the case where the validity flag indicating that the content identification information is invalid is generated, the control unit makes the content identification information null data.

As in claim 16, the prior art of record fails to teach or fairly suggest a content receiving unit which updates the cumulative number to be incremented only by one in the case where the recording unit has been able to confirm the status has been transferred in the order of "head part", to "central part" and to "end part", the status being in the overall content indicated by the content status information corresponding to said each of the plurality of content blocks.

As in claim 17, the prior art of record fails to teach or fairly suggest a content receiving unit which updates the cumulative number to be incremented only by one, in addition to the confirmation by the content status information, in the case where all of the content identification information corresponding to each of the plurality of content blocks is identical.

As in claim 18, the prior art of record fails to teach or fairly suggest a content receiving unit wherein the content

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identification information is accompanied by a validity flag indicating whether or not the content identification information is valid data, and the recording unit checks the validity flag, and in the case where the result indicates that the content identification information is invalid, the recording unit records the content into the recording medium.

The features indicated above, in combination with the other elements of the claims, are not anticipated by, nor made obvious over, the prior art of record.

Response to Remarks

11. Applicant's Remarks filed on December 8, 2009 have been fully considered but they are not persuasive.

Applicant states that the prior art of Asano et al. (U.S. Patent 6,978,377) does not teach "transmitting content status information indicating to which part of overall content said each of the content block corresponds" (page 13 of the Remarks, lines 9 and 10). Accordingly, the meaning of content status information" can be files addresses, file titles or files types etc. In this case, although the prior art of Asano does not explicitly mention such information, in Figs. 2 and 4, data such as header, data length in Fig. 2 and audio type, data start/end indicators can be considered as Applicant's content status

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information" because they are related to the content of the stored data to be transmitted/received.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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13. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kim CHU whose telephone number is (571) 272-7585 between 9:30 am to 6:00 pm, Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen, can be reached on (571) 272-7579.

The fax number for the organization where this application or proceeding is assigned is (571) 273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished application is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9191 (toll free).

/Kim-Kwok CHU/
Examiner AU2627
February 22, 2010
(571) 272-7585

/HOA T NGUYEN/

Supervisory Patent Examiner, Art Unit 2627